

REMARKS/ARGUMENTS

The Office Action has been carefully considered. It is respectfully submitted that the issues raised are traversed, being hereinafter addressed with reference to the relevant headings appearing in the Detailed Action section of the Office Action.

The Applicant has amended claims. The Applicant respectfully submits that the amendments to the claim set are fully supported by the originally filed specification.

Claim 1 has been amended to include the method steps of “determining a first fixative plane and a second fixative plane using dead nozzle compensation and a color plane requiring fixative”. Support for this amendment can be found at paragraphs [3819] to [3822] of the description. Claim 1 has also been amended to recite that “the first fixative plane is initially used to apply fixative to the printhead, but if the first fixative plane includes a dead nozzle then the second fixative plane is used”. Support for this amendment is found at paragraph [3821] of the description.

Dependent claims 2 and 3 have been amended to replace “A method” with “The method”.

New claim 4 has been added which defines that the fixative may be a multi-part fixative. Support for this amendment is found at paragraph [3822] of the description.

Claim Rejections – 35 USC § 103

The Examiner rejects claims 1 - 3 under 35 U.S.C. §103(a) as being unpatentable over Kumar (US 6,283,572) in view of Silverbrook (US 6,623,106). Reconsideration and withdrawal of this rejection is respectfully requested in light of the amendments and following arguments and comments.

Obviousness can only be established when three basic criteria are met (MPEP at §2143 “*Basic Requirements of a Prima Facie Case of Obviousness*”):

(1) First, there must be some teaching, suggestion or motivation to combine or modify teachings of the prior art to produce the claimed invention found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art;

- (2) Second, there must be a reasonable expectation of success; and,
- (3) Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the Applicant's disclosure (*In Re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Kumar, at col 8, line 66 - col 9 line 15, discusses steps that may be performed for a print mask using a look up table in the printer's memory to identify which nozzles are malfunctioning from a pen health measurement system. The print mask can be modified by removing the malfunctioning nozzles from the print mask and replacing them with selected replacement nozzles.

Silverbrook teaches that a fixative should be printed before any other links at col 6, lines 45 - 49, as indicated by the Examiner.

Neither Kumar or Silverbrook teach or suggest all of the claim limitations of amended claim 1. Neither Kumar or Silverbrook teach or suggest "determining a first fixative plane and a second fixative plane using dead nozzle compensation and a color plane requiring fixative". Furthermore neither Kumar or Silverbrook teach or suggest using the second fixative plane if the first fixative plane is found to include a dead nozzle.

Hence, currently amended claim 1 is respectfully submitted not to be obvious over Kumar in view of Silverbrook.

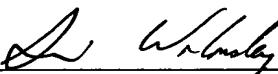
Similarly, dependent claims 2 - 4, incorporating all the features of claim 1, are submitted not to be obvious over Kumar in light of Silverbrook.

CONCLUSION

In view of the foregoing, it is respectfully requested that the Examiner reconsider and withdraw the rejections. The present application is believed to be in condition for allowance. Accordingly, the Applicant respectfully requests a Notice of Allowance of all the claims presently under examination.

Very respectfully,

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